

November 18, 1992
REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

LEGAL EFFECT OF "NO ACTION" ON THREE PERCENT
(3%) INITIATIVE PETITION/COUNCIL DOCKET
OF NOVEMBER 9, 1992, ITEM 202

At the City Council meeting of November 9, 1992, the City Council asked the City Attorney to opine on the legal effect of the Council taking no action on an initiative petition submitted to it pursuant to San Diego Municipal Code ("SDMC") section 27.2515. The initiative petition, if adopted, would amend the City's General Plan and Progress Guide.

According to the City Clerk's certificate, this initiative petition had received more than three percent (3%), but less than ten percent (10%), of valid voters' signatures (called hereafter a "3% petition"). Therefore, under SDMC section 27.2520, the City Council "must within ten days of the date of submission to them by the City Clerk approve or reject the legislative act as presented but may not amend it."

At the November 9th meeting, the City Council was presented with two (2) alternative draft resolutions: 1) one adopting the initiative as its own and amending the General Plan; and, 2) the other rejecting the petition.

The question is: What is the legal effect if the City Council does not adopt either of these two alternatives? The answer is: The legal effect of Council taking no action on this 3% petition is that the petition is rejected.

This result stands in contrast to those initiative petitions which are submitted with 10% or more valid voters signatures (called a "10% petition"). Under SDMC 27.2522, if the Council takes no action on a 10% petition, the initiative is automatically placed on the ballot.

Respectfully submitted,
JOHN W. WITT
City Attorney

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